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Promotion and protection of the rights of children

Promotion and protection of human rights: human rights questions, including alternative approaches for improving the effective enjoyment of human rights and fundamental freedoms

Sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material; and trafficking in persons, especially women and children

Note by the Secretary-General

The Secretary-General has the honour to transmit to the members of the General Assembly the joint report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, Maud de Boer-Buquicchio, and the Special Rapporteur on trafficking in persons, especially women and children, Maria Grazia Giammarinaro, submitted in accordance with General Assembly resolution 71/177 and Human Rights Council resolutions 34/16 and 35/5.

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Joint report of the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material and the Special Rapporteur on trafficking in persons, especially women and children

Summary

The present report is submitted pursuant to General Assembly resolution 71/177 and Human Rights Council resolutions 34/16 and 35/5. The Special Rapporteur on trafficking in persons, especially women and children, and the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material have described herein their activities undertaken in accordance with their respective mandates since their previous reports to the Assembly (A/71/303 and A/71/261, respectively).

They also provide a study on the vulnerabilities of children to sale, trafficking, and other forms of exploitation in situations of conflict and humanitarian crisis. Their recommendations, at the end of the report, are aimed at reducing the vulnerabilities of those children and enhancing their protection.

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I. Introduction

1. The present report is submitted pursuant to General Assembly resolution 71/177 and Human Rights Council resolutions 35/5 and 34/16. It outlines the activities undertaken from August 2016 to August 2017 by the Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material, and the Special Rapporteur on trafficking in persons, especially women and children. The focus of the report is the vulnerability of children to sale, trafficking and other forms of exploitation in the context of conflict and humanitarian crisis.

II. Activities carried out by the Special Rapporteurs

A. Participation in conferences and consultations[1]

2. From 1 to 3 February 2017, both Special Rapporteurs participated in a strategic workshop held in Wilton Park (United Kingdom of Great Britain and Northern Ireland) to begin operationalizing Alliance 8.7, a global partnership launched in New York on 21 September 2016 to eradicate forced labour, modern slavery, human trafficking and child labour, in compliance with target 8.7 of the 2030 Agenda for Sustainable Development (General Assembly resolution 70/1).

Special Rapporteur on the sale and sexual exploitation of children, including child prostitution, child pornography and other child sexual abuse material

3. On 20 February 2017, the Special Rapporteur participated in an event on policy initiatives to tackle the exploitation, trafficking and modern slavery of refugee and displaced children, organized by the United Kingdom branch of the United Nations Children's Fund (UNICEF) in Wilton Park.

4. In her annual report to the Human Rights Council for its thirty-fourth session (A/HRC/34/55), she focused on illegal adoptions. On 8 March, she organized an event on illegal adoptions and the rights of victims to truth, accountability, reparation and guarantees of non-repetition.

5. On 12 June, she was a panellist at the World Summit on the Information Society Forum 2017, at the event entitled "WePROTECT Global Alliance: multi-stakeholder action to stop online child sexual exploitation".

6. On 13 July, she participated in a meeting of the World Tourism Organization, in Madrid, on the implementation of recommendations made by ECPAT International in its global study on the sexual exploitation of children in travel and tourism.

Special Rapporteur on trafficking in persons, especially women and children

7. On 20 March 2017, the Special Rapporteur delivered a speech at a conference on how to tackle trafficking in human beings in the field of asylum — the practices of Switzerland under scrutiny, held in Bern.

8. On 9 June, at the thirty-fifth session of the Human Rights Council, she presented her thematic report on the efforts of multi-stakeholder initiatives and

[1] For activities of the Special Rapporteur on the sale and sexual exploitation of children between August 2016 and December 2016, see A/HRC/34/55. For activities of the Special Rapporteur on trafficking in persons, especially women and children between 1 August 2016 to 28 February 2017, see A/HRC/35/37.

industry coalitions to address, through voluntary standards, human trafficking in supply chains (A/HRC/35/37).

9. On 15 June, she was a panellist at the Foreign Trade Association's annual conference in a session on managing migration and exploitation in the supply chain.

10. On July 10, she was a panellist at an event on the identification and referral of trafficked persons from among international protection seekers, organized by the Office of the United Nations High Commissioner for Refugees (UNHCR) and the Italian Ministry of Interior, in Rome.

B. Country visits

11. The Special Rapporteur on the sale and sexual exploitation of children visited the Dominican Republic from 8 to 15 May 2017, at the invitation of the Government of that country.[2] She thanks the Government of the Dominican Republic for its cooperation before and during the visit. The report of the mission will be presented to the Human Rights Council at its session in March 2018.

12. The Special Rapporteur on trafficking in persons, especially women and children visited Cuba from 10 to 14 April 2017, at the invitation of the Government of that country.[3] She thanks the Government of Cuba for its cooperation before and during the visit. The report of the visit will be presented to the Human Rights Council at its session in June 2018.

III. Vulnerabilities of children to sale, trafficking and other forms of exploitation in situations of conflict and humanitarian crisis

A. Introduction

13. The present joint study by the Special Rapporteur on trafficking in persons, especially women and children and the Special Rapporteur on the sale and sexual exploitation of children addresses the vulnerabilities of children to sale, trafficking, and other forms of exploitation in situations of conflict and humanitarian crisis.

14. The forms of exploitation covered include the sexual exploitation of children, child and forced marriage, the labour exploitation of children and child labour, including in its worst forms, such as the recruitment and use of children in armed conflict. The children who are considered in the context of the present report are those who are said to be "on the move", and may be unaccompanied or separated from their families. This includes refugee children, internally displaced children and child migrants below 18 years of age. The report is based on a literature review of available material on this topic.

15. The rationale of the joint report stems from the fact that addressing emerging forms of vulnerabilities of children has been identified as a priority area by both mandate holders during their respective tenures. The joint report also reflects the commitment of the Special Rapporteurs to ensuring complementarity among those special procedures mandate holders who address cross-cutting issues of concern and to mainstreaming the protection of children's rights within the special procedures system.

[2] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21632&LangID=E.
[3] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21518&LangID=E.

16. The sale of and trafficking in children, although similar, are two distinct but linked human rights violations, and States are legally bound to take measures to prevent both (article 35 of the Convention on the Rights of the Child).[4] States tend to confuse the sale of children with child trafficking. Indeed, most national legislations and available data refer to the crime of trafficking, while the crime of sale is overlooked. Consequently, most of the data and documents that were analysed for the purpose of the present study focus on trafficking, as specific information on the crime of sale of children continues to be scarce.

B. Vulnerabilities of children to exploitation in situations of conflict and humanitarian crisis

1. Overview

17. Whether induced by armed conflict, natural disasters or protracted humanitarian situations, crises are accompanied by a breakdown in public institutions, violations of human rights, the erosion of essential services, inequalities and impoverishment. Existing vulnerabilities to sale, trafficking and exploitation, from gender-based violence to discrimination and to lack of economic opportunities, are exacerbated during such crises. Furthermore, crises tend to fuel impunity, the breakdown of law and order and the destruction of communities, and foster the conditions in which trafficking and other forms of exploitation flourish, often past the point at which hostilities or the humanitarian crises cease.[5] Other aggravating factors are related to discrimination, whether gender-based, ethnic, racial, religious, social, within a community or at the national level.

18. The increase in conflict and humanitarian crises has led to a record level of displacement, with 24.2 million new displacements worldwide in 2016, mostly caused by weather-related disasters.[6] Children are disproportionately affected by conflict and humanitarian crises. According to the Secretary-General, children suffered from human rights violations in situation of conflict in 14 countries in 2015, namely in Afghanistan, Colombia, the Central African Republic, the Democratic Republic of the Congo, Iraq, Mali, Myanmar, Nigeria, the Philippines, Somalia, South Sudan, Sudan, the Syrian Arab Republic and Yemen.[7] By the end of 2015, 28 million children had been forcibly displaced by violence and conflict, of whom 17 million had been internally displaced, 1 million were asylum-seekers and 10 million were refugees.[8] Children are overrepresented in the number of refugees worldwide, accounting for 51 per cent of the 22.5 million refugees in 2016, while they only represent a third of the world's population.[9]

19. At the regional and national levels, children on the move are also vulnerable to sale, trafficking and other forms of exploitation. There are also reports of missing

[4] The sale of children is defined in article 2 (a) of the Optional Protocol to the Convention on the Rights of the Child on the sale of children, child prostitution and child pornography. Trafficking in persons is defined in article 3 of the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime.

[5] A/HRC/32/41, paras. 13-14; International Organization for Migration (IOM), "Addressing human trafficking and exploitation in times of crisis: evidence and recommendations for further action to protect vulnerable and mobile populations" (Geneva, 2015).

[6] See www.internal-displacement.org/database.

[7] See A/70/836; S/2016/360.

[8] United Nations Children's Fund (UNICEF), *Uprooted: The Growing Crisis for Refugee and Migrant Children* (New York, 2016), p. 18.

[9] Office of the United Nations High Commissioner for Refugees (UNHCR), "Global trends: forced displacement in 2016" (Geneva, 2017), p. 2.

children, some of whom fall into the hands of criminals to continue their journey to reach relatives or acquaintances in another country.[10] In Africa, nearly 3 million children were refugees by the end of 2015.[11] As of mid-2016, 390,000 Nigerian children had been displaced to the neighbouring countries of Cameroon, Chad and the Niger, and a further 1.1 million children had been internally displaced owing to the conflict in the Lake Chad basin.[12] Children have been subjected to abhorrent abuses, mainly at the hands of Boko Haram, which has reportedly recruited and used more than 8,000 children since 2009, abducted at least 4,000 girls, boys and young women, and inflicted sexual violence on more than 7,000 girls and women, often leading to pregnancies.[13] Since the beginning of the conflict in South Sudan, in 2013, children have constituted 66 per cent of the 1.3 million refugees,[14] and the majority of the 1.9 million internally displaced persons.[15] A direct consequence of the war has been the recruitment and use of more than 17,000 children, with a further 3,090 children abducted and 1,130 children sexually assaulted by armed forces and armed groups, among others.[16]

20. In Asia, children constituted 48 per cent of the 14.8 million refugees by the end of 2015.[17] The ongoing conflict in the Syrian Arab Republic, which had created 2.4 million child refugees in 2015[18] and more than 2 million internally displaced children by 2016,[19] has led to situations of extreme vulnerability. Indeed, United Nations assessments have revealed cases of child recruitment in 90 per cent of the locations surveyed in that country and cases of child marriage in 85 per cent of them.[20] Similarly, the decades-long conflict in Afghanistan has created 1.3 million child refugees[21] and, by 2016, had displaced more than half a million persons, 56 per cent of whom were children.[22] Those children are at a particularly high risk of being abused and exploited, with a very elevated level of child or forced marriage and domestic abuse.[23] Likewise, the reported rise in the number of child brides among Rohingya children who have fled Myanmar and live in neighbouring countries perpetuates the cycle of violence and poverty experienced by those girls.[24]

21. As one of the main destinations for children on the move who are fleeing violence, conflict and humanitarian crisis, Europe is at the heart of the sale of, trafficking in and other forms of exploitation of children. In Europe, child trafficking has increased sharply owing to the migration crisis.[25] High rates of trafficking in and exploitation of children have been documented on the central

[10] See http://missingchildreneurope.eu/news/Post/1023/Europol-confirms-the-disappearance-of-10-000-migrant-children-in-Europe.
[11] UNICEF, *Uprooted*, p. 8.
[12] Ibid., p. 58.
[13] See S/2017/304; A/HRC/32/32/Add.2.
[14] UNHCR, "Global trends", pp. 30-33.
[15] Kimberly Bennett and others, *Global Report on Internal Displacement 2017*, Jeremy Lennard, ed. (Geneva, Internal Displacement Monitoring Centre, 2017), p. 13.
[16] See www.unicef.org/media/media_94185.html.
[17] UNICEF, *Uprooted*, p. 78.
[18] Ibid., p. 29.
[19] See http://reliefweb.int/sites/reliefweb.int/files/resources/hno_2017_summary_0.pdf.
[20] Alum McDonald and others, "Invisible wounds: the impact of six years of war on the mental health of Syria's children" (Save the Children, 2017), p. 9.
[21] UNICEF, *Uprooted*, p. 29.
[22] See http://reliefweb.int/sites/reliefweb.int/files/resources/afg_2017_hno_english.pdf.
[23] Ibid.
[24] See www.ohchr.org/EN/NewsEvents/Pages/DisplayNews.aspx?NewsID=21754&LangID=E.
[25] European Commission, "Report on the progress made in the fight against trafficking in human beings, 2016, p. 7.

Mediterranean route from North Africa to Italy.[26] While in transit from sub-Saharan Africa to Europe, young Somalis become victims of frequent and serious violence at the hands of traffickers, criminal gangs and Libyan groups.[27] Those children are frequently detained in Libyan jails until a ransom of about $2,000 is paid.[28]

22. In Central and North America, 100,000 unaccompanied or separated children were identified at the border between Mexico and the United States of America, comprising one third of such children who were registered worldwide in 2015 and 2016.[29] More than half of those children have been fleeing situations of extreme violence, generally related to organized crime, in countries such as Honduras, Guatemala, Mexico and El Salvador.[30] Those who undertake this perilous journey are exposed to xenophobia, discrimination, abuse, violence and exploitation, and many end up detained at the border, where they risk further ill-treatment, abuse and exploitation.[31] Up to 38 per cent of the children coming from Mexico and apprehended in the United States had been recruited into the smuggling industry, indicating a high proportion of exploitation at the border.[32]

23. In the absence of safe and regular migration channels, as well as permanent and accessible mechanisms for children and their families to access long-term regular migration status or residence permits, children are forced to search for precarious alternatives that increase their exposure to risks of sale, trafficking and other forms of exploitation.

2. Specific vulnerabilities

24. Conflict and humanitarian crises result in children risking being exposed to sale, trafficking and other forms of exploitation, whether in their homes, communities or society, or in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements in source, transit and destination countries, some of which are discussed below.

(a) Vulnerability of children to exploitation in source countries

25. In many conflict-affected countries, girls become victims of sexual exploitation, including forced marriage, sexual slavery, prostitution and forced pregnancy.[33] The egregious pattern of girls abducted from their homes or schools in conflict-affected settings by extremist groups has also emerged. In Iraq, for example, girls from ethnic and religious minority groups such as the Yazidis continue to be subjected to sexual violence by Islamic State in Iraq and the Levant (ISIL). There are also reports of trafficking in and sale of children by ISIL.[34] In Somalia, there is a pattern of forced marriage of girls to militants from groups such as Al-Shabaab and Ahl al-Sunna wal-Jama'a and soldiers of the National Army.[35]

26. In addition to being a means for advancing their criminal endeavours, the sexual exploitation of children is further used by violent extremist groups to

[26] UNICEF, *A Child is a Child: Protecting Children on the Move From Violence, Abuse and Exploitation* (New York, 2017), p. 15.

[27] Viviana Coppola and Eva Lo Iacono, eds., "Young invisible enslaved: The child victims at the heart of trafficking and exploitation in Italy" (Save the Children, 2016), pp. 23-24.

[28] Ibid.

[29] UNICEF, *A Child is a Child*, p. 11.

[30] UNHCR, "Children on the run: unaccompanied children leaving Central America and Mexico and the need for international protection", 2014, pp. 6-7.

[31] See joint allegation letter, case No. USA 10/2014.

[32] UNHCR, "Children on the run", p. 11.

[33] S/2017/249, paras. 16, 54 and 55; A/71/303, para. 33.

[34] A/71/303, para. 29.

[35] See A/71/303.

generate revenue, as part of the shadow economy of conflict and terrorism, through trafficking for the purpose of sexual exploitation, sexual slavery and the extortion of ransoms from desperate families. In some circumstances, girls are themselves treated as the "wages of war", being gifted as a form of in-kind compensation or payment to fighters, who are then entitled to resell or exploit them as they wish.[36] Such strategies are also believed to be a way of recruiting, rewarding and retaining fighters.

27. In humanitarian crises, the pre-existing vulnerabilities of girls that are rooted in discriminatory traditions and customs persist and lead to negative coping mechanisms. Children seeking to survive are often compelled to exchange sexual services, and girls are even forced to marry for food, shelter, protection or safe passage.[37] According to the Secretary-General, approximately 90 per cent of women and girls affected by conflict in north-east Nigeria do not have access to basic services.[38] As a result, they are forced to exchange sex for food and other essential supplies, and the child or forced marriages of girls to older men are on the rise, as a supposed protection mechanism and source of income for desperate families.

28. In addition, despite their role in supporting the maintenance of peace and security and providing humanitarian assistance, the deployment of peacekeeping forces and international humanitarian personnel, generally in the context of conflict and humanitarian crises, has also proven to be a risk factor for children. In 2016, 138 cases of children allegedly victims of sexual exploitation and abuse committed by such forces and personnel had been reported by the Office of the United Nations Special Coordinator for the Middle East Peace Process, the United Nations Assistance Mission in Afghanistan, the United Nations Integrated Peacebuilding Office in Guinea-Bissau, the United Nations Mission in South Sudan, the United Nations Multidimensional Integrated Stabilization Mission in Mali, the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic, the United Nations Operation in Côte d'Ivoire, the United Nations Organization Stabilization Mission in the Democratic Republic of the Congo and the United Nations Stabilization Mission in Haiti.[39]

29. Chaos in the aftermath of a natural disaster can also exacerbate the vulnerability to exploitation of the affected communities by making children more prone to accepting, for example, bogus offers of employment or education from traffickers or criminal networks. In order to support the family's dire economic situation or meet their own needs, children are sold or trafficked for the purpose of labour exploitation. They may be entrusted by family members to people who promise to find them work either within or outside the country, or they may directly offer their services to employers and middle persons. Once in the hands of traffickers who prey on their eagerness to work and send money to the family, those children are forced into the worst forms of child labour.[40]

30. In addition, children, especially those who are unaccompanied or live in conflict and humanitarian crisis areas, may be sold or trafficked to serve as combatants in armed conflict. Children are also used as human bombs and human shields. For example, in Iraq, ISIL and other extremist groups traffic boys and young men, including members of the Yazidi minority, into armed conflict, radicalize them to commit terrorist acts, using deception, death threats or the offer

[36] See S/2017/249.
[37] A/71/303, paras. 32 and 56; IOM, "Addressing human trafficking and exploitation in times of crisis", p. 19.
[38] S/2017/249, para. 90.
[39] See A/71/818.
[40] See A/71/261.

of money and women as rewards.[41] In Nigeria, between 2014 and 2016, a total of 90 children (70 girls and 20 boys) were used by Boko Haram in 56 suicide bombings.[42] Children are also compelled to work as porters, cooks, guards and messengers, or are forced to commit crimes, such as looting and physical and sexual violence.[43] In addition, boys and girls in those situations are often sexually abused.

31. The aftermath of humanitarian disasters is also a fertile ground for the illegal international adoption of children, as it is facilitated by the breakdown of institutions and the lack of border control. For example, following the earthquakes in Haiti in 2010 and Nepal in 2015, there were concerns that separated and orphaned children were being trafficked for sexual or labour exploitation, sold or illegally adopted, sometimes by well-meaning families.[44] In addition, the crossover between smuggling and trafficking represents a major risk for children,[45] including those who go missing with the aim of reaching relatives or acquaintances in another country.

(b) Vulnerability of children to exploitation in transit countries

32. Threats faced by boys and girls do not end when they leave their home countries. As they travel onward, often paying their way through dangerous routes by using exploitative smuggling and trafficking networks, children are subject to further violence, abuse and exploitation,[46] including at borders owing to pushbacks and interceptions by border control officials. Unaccompanied children and those separated from their families face heightened risks, both along the route and upon arrival in transit countries.

33. Factors contributing to the sexual exploitation of children on the move include their lack of financial resources, the failure of child protection and welfare systems to act as a safety net, the prolonged exposure to inhumane living conditions and a protracted and overly burdensome path to residence status.[47]

34. In Greece, children in or outside refugee camps are sexually exploited, generally through deception about the amount they would need to earn in order to pursue their journey. Unable to collect enough money to cover their onward journey, many get discouraged and get involved in drugs, shattering any hope of continuing their journey.[48]

35. Similarly, girls are trafficked for sexual exploitation in temporary reception centres and informal settlements. In northern France, some children were transported to Spain, where they were sexually exploited in order to cover the cost of their onward journey to London of around €9,000.[49] In the same area, some children claiming to be adults were sexually exploited for the promise of passage to

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[41] A/71/303, para. 29; A/HRC/32/32/Add.2; *Global Report on Trafficking in Persons 2016* (United Nations publication, Sales No. E.16.IV.6), p. 65.

[42] See S/2017/304.

[43] A/71/303, para. 29.

[44] See A/HRC/19/63; see also Anna Childs, "Why child trafficking spikes after natural disasters: and what we can do about it", 22 March 2016. Available from http://theconversation.com/why-child-trafficking-spikes-after-natural-disasters-and-what-we-can-do-about-it-53464.

[45] European Police Office (Europol) and International Criminal Police Organization (INTERPOL), "Migrant smuggling networks: joint Europol-INTERPOL report", May 2016, p. 9.

[46] UNICEF, *Uprooted*, p. 71.

[47] Vasileia Digidiki and Jacqueline Bhabha, "Emergency within an emergency: the growing epidemic of sexual exploitation and abuse of migrant children in Greece" (FXB Center for Health and Human Rights, Harvard University, 2017), pp. 24-26.

[48] Ibid., pp. 23-25.

[49] UNICEF, "Neither safe nor sound: unaccompanied children on the coastline of the English Channel and the North Sea", June 2016, p. 80.

the United Kingdom or in order to pay for the journey by receiving around €5 a time for sexual services, revealing the level of pressure that they were under to raise the €5,000 to €7,000 charged for their passage.[50]

36. There are also indications that the most common form of sexual exploitation for Afghani boys on the move is rape by their traffickers and their "friends", which they endure without reporting.[51]

37. Living in limbo for long periods owing to delays or inefficiencies in or the absence of legal paths to migration may drive children who have depleted their financial resources to seek alternative ways, whether legal or illegal, to earn money either to survive or to continue their journeys. Moreover, when they are out of school for long periods, undernourished and without health care, impoverished and beset by mounting anxieties as uncertainty drags on, children become increasingly vulnerable and desperate.[52]

38. Children may be compelled to work to sustain themselves or provide for their families' basic needs, especially where parents cannot work legally or simply cannot find work, legally or illegally. Iraqi and Syrian refugee children in Lebanon, for example, work in textile factories, construction or the food service industry, or as agricultural labour or street vendors in conditions amounting to forced labour.[53] According to UNICEF, in Jordan, Lebanon and Turkey, shopkeepers, farmers and manufacturers hire Syrian refugee children because they can pay them a lower wage. Children, especially girls, are seen as less likely to be targeted by the police or prosecuted for illegal work than adults, making families more likely to send them to work. These types of child labour, which often mask other forms of exploitation, such as trafficking for forced labour, have dire consequences on children.

39. Moreover, in transit countries such as Libya, migrant girls are often exposed to sexual violence by parties to the conflict, as well as by smugglers, traffickers and other criminal groups.[54] They face threats and sexual violence when held, sometimes for months, in detention centres and in poor conditions, and are also abducted and sexually abused by groups pledging allegiance to ISIL.[55]

40. Finally, the practice of "temporary" child or forced marriages is one of the dangerous coping mechanisms that girls face while in refugee camps in transit countries. Confronted with the economic burdens brought on by protracted displacement and limited or inexistent work opportunities, some refugee and migrant parents, and often children themselves, turn to those measures because they feel that they are the only option for safeguarding a child's future or supporting a family's immediate needs.[56] For example, Syrian refugee girls are often forcibly married by their parents, who view such arrangements as a way of securing their daughters' safety and ensuring the family's livelihood through the dowry. Once married, those girls are likely to end up in a situation of sexual and domestic exploitation by a spouse whom they have followed abroad. The use of child and

[50] Ibid.

[51] Ibid., p. 81. The reception centre in Calais was officially closed and informal settlements cleared in October 2016. Nonetheless, many people, including unaccompanied children, have returned and rebuilt small camps. See Anne Guillard, "Refugees start to gather in Calais again, month after camp was closed", *Guardian*, 2 April 2017. Available from www.theguardian.com/world/2017/apr/02/refugees-gather-calais-camp-unaccompanied-children.

[52] UNICEF, *A Child is a Child*, pp. 40-41.

[53] A/71/303, para. 23.

[54] See S/2017/249.

[55] Ibid., para. 43.

[56] UNICEF, *Uprooted*, p. 38.

forced marriages to traffic girls into prostitution in another country is also common.[57]

41. For the girls involved, these coping mechanisms have dangerous short- and long-term implications that put them at increased risk of physical and emotional abuse. Such mechanisms also reduce the likelihood that a girl will complete schooling, a reality that can have negative repercussions throughout a girl's life, including earlier childbearing, worse health outcomes and lower income.[58]

42. Children are also coerced into criminal activities by adults or peers. For example, in refugee camps in Iraq and Lebanon, Syrian refugee children are trafficked for forced begging and selling items on the street.[59] Moreover, trafficked children are often obliged or induced by their exploiters to commit crimes, such as pickpocketing, burglary and drug cultivation and transportation.[60] On the route from the Horn of Africa to North-Eastern Africa, there have also been cases of trafficking for the purpose of organ removal.[61] Although the extent of such crimes is unknown, children on the move travelling along these routes are also vulnerable to them.

(c) Vulnerability of children to exploitation in destination countries

43. Once children reach their destinations, they may encounter a different array of obstacles, including detention, lengthy family reunification processes (when they are available at all), discriminatory treatment while in State care, limited access to social services, education and career opportunities, and uncertainty regarding their residence status in the country.[62] In the United States, there have been cases of trafficking in unaccompanied migrant children who, after their cases were processed by agencies of the Department of Homeland Security and the Department of Health and Human Services, have been placed with family members in the country. At times, some of those children have been trafficked for sexual and labour exploitation by criminal networks who posed as family members or forced them into begging or drug smuggling.[63]

44. By the time children arrive at their destination, they have acquired debts with exploiters who take away their documents and use threats or violence to subdue them into labour exploitation. For example, Iranian and Afghani children who have crossed the English Channel find themselves pressured to send money to their families, while also repaying substantial debts related to their journeys.[64] This heavy financial burden drives children to accept working conditions that constitute worst forms of child labour, including trafficking. At destination, many are trafficked for forced and exploitative labour in farms and factories and on fishing boats. For example, in France and the United Kingdom, young men are exploited in cannabis farms,[65] while others are allegedly exploited in the agriculture sector in Europe.

45. Finally, the detention of children on the move may occur in both transit and destination countries, in general for identification or security purposes. Regardless of the context, detained children are profoundly and negatively affected by such detention. Children in immigration detention have been subjected to abuse, torture,

[57] A/HRC/32/41, paras. 32-33.
[58] UNICEF, *Uprooted*, 2016, p. 38.
[59] Ibid.
[60] A/HRC/29/38, para. 20.
[61] *Global Report on Trafficking in persons 2016*, p. 62.
[62] UNICEF, *Uprooted*, p. 39.
[63] A/HRC/35/37/Add.2, para. 18.
[64] UNICEF, *Uprooted*, p. 39.
[65] UNICEF, "Neither safe nor sound", p. 46.

and ill-treatment or have witnessed such acts.[66] In destination countries, detained children are housed in inadequate facilities, which leads them to fall victim to sexual abuse and exploitation. Although underreported, such violence has occurred in asylum accommodations in Belgium, Germany, Sweden and Turkey.[67]

C. Available responses to address the exploitation of children in the context of conflict and humanitarian crisis

46. Given the vulnerabilities of children to numerous forms of exploitation, including sale and trafficking, in the context of conflict and humanitarian crisis, a comprehensive and child rights-based response is needed. The following steps identify the required measures and highlight existing good practices as well as gaps.

1. Identification of victims and potential victims

47. Effective procedures for the identification of sold, trafficked or otherwise exploited children or potential victims are needed in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements, and in areas of arrival of large influxes of people fleeing conflict and humanitarian crisis. Too often, cases of missing children, who may be victims of trafficking, go unnoticed owing to a lack of reporting procedures.[68]

48. Responses to current humanitarian crises are increasingly dependent on voluntary work and, as a result, frontline workers are not always appropriately trained or able to detect such complex situations as trafficking in persons or other forms of child exploitation.[69] A lack of confidentiality or child-friendly spaces and complaint mechanisms in places where migrants or refugees reside, including reception centres, refugee camps and informal settlements, also hampers the establishment of a bond of trust with the children that would enable them to share their concerns and the risks that they face. In addition, children's lack of confidence in the protection system and the assistance available to them drives them to hide their exploitation from humanitarian workers.[70] Finally, children's experience of abuse and exploitation as well as their own statements regarding their age are met with disbelief by public services, undermining the identification process further.[71]

49. The use of children by migrant smuggling networks also raises concerns about the misidentification of children. Within the northern triangle of Central America, children are frequently recruited by criminal gangs to work as migrant smugglers. The voluntary nature of their decision to take part in the smuggling of migrants across the Mexican border is doubtful. While interviews have exposed that, in some cases, children started voluntarily as human smuggling guides, once part of the cartels that control the smuggling routes, children were unable to leave their

[66] See A/HRC/28/68.

[67] Women's Refugee Commission, *Falling Through the Cracks: Refugee Women and Girls in Germany and Sweden* (New York, 2016), p. 7, Council of Europe, Lanzarote Committee, "Special report: protecting children affected by the refugee crisis from sexual exploitation and sexual abuse", 13 March 2017.

[68] European Commission, "The protection of children in migration", 2017, p. 7.

[69] Gustav Lindskog and Lotte Clasessens, "Child and adolescent friendly spaces: providing child protection and education in emergencies — a case study from the 2015 Nepal earthquake response" (Plan International, 2016), p. 14, and UNICEF, "Neither safe nor sound", p. 70.

[70] Digidiki and Bhabha, "Emergency within an emergency".

[71] House of Lords, European Union Committee, "Children in crisis: unaccompanied migrant children in the EU", 2nd report of session 2016-17, HL Paper 34, p. 15.

exploiters. Indicators of exploitation are often overlooked by State authorities, and children are not identified as child victims of trafficking.[72]

50. Moreover, despite existing guidelines,[73] approaches to the age and filiation determination of children have raised many concerns. Age determination procedures are frequently intrusive, unreliable and often expose unaccompanied children to the same violations as undocumented adults. Inaccurate age assessments and the lack of recognition of a child status have resulted in unaccompanied children facing risks of detention, deportation and violence.[74]

2. Protection

51. States have the primary responsibility to protect children within their territory or subject to their jurisdiction, regardless of their status. In certain cases, when States are unable or unwilling to protect and respect children's human rights, the international community may assist.[75]

52. To respect and apply the rights enshrined in the Convention on the Rights of the Child, States must ensure that protection measures follow the general principles of non-discrimination, best interests, right to life, survival, development and respect for the views of the child. Children also have the right to information, confidentiality and international protection.

53. Despite international, regional and national efforts to implement an effective humanitarian response to current crises, the increasing number of unaccompanied and separated children poses severe challenges to transit and destination countries and humanitarian agencies with respect to protecting and supporting refugee and migrant children adequately. The absence or inadequacy of child protection systems, the lack of coordination among different child protection services and the limited capacity in camps to host children in specialized and separated facilities exacerbate the risks to exploitation to which they are exposed during their journey.[76] The lengthy processing of family reunification and resettlement solutions or inefficient family reunification procedures, in addition to poor living conditions experienced in camps and the possibility to be placed in detention, are all factors driving migrant children to avoid the child protection system in transit and destination countries.[77] Moreover, a lack of knowledge and awareness among the humanitarian community about the vulnerabilities experienced by boys and girls on the move, together with the children's lack of information about their own situation, represent further barriers in protecting children's rights effectively in situations of conflict and humanitarian crisis.[78] Other gaps include a lack of timely information, legal options and legal counselling, timely appointment of guardians and firewalls between child

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[72] UNHCR, "Children on the run", p. 11.

[73] See, for example, UNICEF, "Guidelines on the protection of child victims of trafficking", September 2006, p. 15.

[74] In its communication on the protection of children in migration, the European Union also acknowledges the disparity in procedures and inconsistency in current standards of age determinations procedures. It raises concerns about the consequences that errors in the determination of a child's age or the barriers to challenge an incorrect determination may have in the child's access to protection mechanisms.

[75] UNHCR, "Children on the run", p. 41.

[76] See, for example, the experience of children in the French camps around the English Channel area in UNICEF, "Neither safe nor sound".

[77] Digidiki and Bhabha, "Emergency within an emergency", p. 33 and UNICEF, *Uprooted*, p. 104.

[78] A/HRC/33/53, para. 34; UNICEF, *Uprooted*, p. 104; UNHCR, "Children on the run", p. 49; International Centre for the Human Rights of Migrants, "Forced displacement and protection needs produced by new forms of violence and criminality in Central America", study prepared for UNHCR, May 2012.

protection and migration authorities as effective means to safeguard the children's interests and protect their rights, including access to justice and remedies.

3. Access to support services: interim care

54. Children are entitled to adequate accommodation, giving priority to family-based and family-like solutions.[79] Unaccompanied or separated children should be housed in specialized camps or at least in areas separated from adults. However, the availability of specific services to address the needs of children and the general circumstances faced by children largely depend on the facility where they are housed.

55. Among good practices related to adequate child protection mechanisms in crisis responses is the creation of child-friendly spaces within interim care services. Promising examples include efforts by UNICEF and UNHCR to provide psychosocial support and other child protection services through child and family support hubs (also known as "blue dots"), which, among other services, offer children child-sensitive information on their rights, especially regarding international protection and referrals to services where necessary. Another promising example is Plan International's child-friendly space established in the wake of the 2015 earthquake in Nepal to provide children with psychological support and facilitate their return to school. These child-friendly spaces were integrated into temporary learning centres and based on child participation, allowing children to share their concerns and protection issues.

56. While some refugee and internally displaced persons camps have separate facilities for unaccompanied or separated children, they often lack family-based solutions and have very limited capacity to face the increasing number of unaccompanied or separated children. As a consequence, children share their living space with adults or are held in prolonged detention. In addition, even when children are offered a separated living area, those are often easily accessible to everyone, especially during night-time. Moreover, certain camps fail to provide basic amenities, such as appropriate health-care services or gender-differentiated sanitation. The lack of adequate lightning, the layout of some camps and a shortage of security personnel further increase the vulnerability of children to abuse.[80] Finally, the reluctance of many European countries to provide refugee children with a safe and permanent home continues to aggravate the situation by prolonging the stay of children in the facilities.[81]

57. A lack of coordination among services and case management gaps have also been identified, in addition to a limited capacity or lack of protocols to address child sexual abuse in public hospitals located near the camps. The absence of trained female translators and adequate psychological support constitute additional obstacles in the implementation of protection mechanisms and have important consequences in the detection and referral of child trafficking and exploitation cases.[82]

58. Another aspect of States' failure to protect children in the context of humanitarian responses is the alarming practice of child detention owing to their irregular migration status. The Committee on the Rights of the Child and other human rights mechanisms have underscored that immigration-related detention of children can never be in their best interests and that, no matter whether they are

[79] See General Assembly resolution 64/142.

[80] Digidiki and Bhabha, "Emergency within an emergency", p. 30.

[81] Ibid., p. 15.

[82] Digidiki and Bhabha, "Emergency within an emergency", p. 35; UNICEF, "Neither safe nor sound", p. 22.

unaccompanied or with their families, their detention constitutes a violation of their rights that, at times, may amount to "torture and ill-treatment".[83] The reasons invoked by States to resort to immigration-related detention of children include health and security screening, identity verification, protection and the facilitation of removal from the country. Alternatives to child detention should be sought.[84] Children should be allowed to reside in a community-based context while their immigration status is being resolved. Good practices of such alternatives include the child-sensitive community assessment and placement model.[85]

4. Adoption of durable solutions

59. A durable solution is a long-term, sustainable solution that ensures that all children, including unaccompanied and separated children, can develop into adulthood in an environment that will meet their needs and rights, including recovery and (re)integration. Such solutions may encompass voluntary repatriation, resettlement, local integration and complementary pathways to protection and other durable solutions. However, the common practice has been the return of the child to their family or country of origin as a first option. States should only return or repatriate unaccompanied children as a measure of protection, for example, to ensure family reunification in cases in which it is in the child's best interest and after due process of law.[86] Unfortunately, in countries where reception networks are overwhelmed by the increasing number of children on the move, individual assessments of the best interests of the child are not taken into account and children are placed in inadequate facilities.[87] These deficiencies in the protection system also increase children's vulnerability to exploitation and trafficking. Confronted with the States' failure to provide an adequate response, children see traffickers and smugglers as a preferable source of support.[88] These reasons, together with the gaps identified in child protection systems and the lack of reliable data and coordination among services and across transit and destination countries, contribute to the rising figures of missing children.[89] In addition, children may not wish to be identified in the first European Union country that they enter in order to escape the implications of the Dublin regulation (regulation (EU) No. 604/2013) establishing the criteria and mechanisms for determining the Member State responsible for examining an application for international protection lodged in one of the Member States by a third-country national or a stateless person.

60. In addition, States' capacities and approach to implementing durable solutions for children vary. While some prioritize child protection, others look at it as a matter of security, do not consider such situations as their responsibility or do not have the capacity to provide child protection in conflict- and disaster-affected areas. Concerns have been raised about the policy adopted by some States to discourage unaccompanied children in transit to apply for asylum or any other form of

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[83] See A/HRC/28/68.

[84] See A/HRC/20/24.

[85] David Corlett and others, *Captured Childhood: Introducing a New Model to Ensure The Rights and Liberty of Refugee, Asylum Seeker and Irregular Migrant Children Affected by Immigration Detention* (International Detention Coalition, 2012), p. 58.

[86] A/71/285, para. 104.

[87] A/HRC/33/53, para. 39.

[88] See http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/eu-home-affairs-subcommittee/unaccompanied-minors-in-the-eu/written/30427.html; http://data.parliament.uk/writtenevidence/committeeevidence.svc/evidencedocument/eu-home-affairs-subcommittee/unaccompanied-minors-in-the-eu/written/30321.html (accessed on 4 July 2017).

[89] House of Lords, European Union Committee, "Children in crisis", p. 59.

protection.[90] In Europe, in particular, States' responses are very fragmented. In places where migrants or refugees reside, including reception centres, refugee camps or informal settlements, unaccompanied children are viewed as young people in transit for whom local integration is not a suitable option.[91] While family reunification applies in such cases,[92] it is rarely implemented in practice, owing to, among other reasons, the restricted concept of family (limited to close relatives only) which does not take into account the diversity in type and composition of families across regions. In addition, the process for family reunification is often lengthy and complex.

61. Regardless of the context, children who are victims of trafficking and other forms of exploitation are entitled to the right to be identified, to protection, to assistance and support, to safe return and protection from re-trafficking and persecution, and to access remedies. They also have specific rights and requirements in respect to care, recovery and reintegration. They require holistic care provided on an individual assessment basis, while being consulted, and with their best interests at the heart of every measure taken.[93] States must also proactively fight impunity and bring perpetrators of trafficking and other forms of exploitation to justice by implementing international instruments fully and effectively (see section D below), addressing the specific obstacles that children may encounter as a result of their migratory status and improving cooperation across countries.

62. In response to the sexual exploitation and abuse of children by peacekeeping forces and international humanitarian personnel, the Secretary-General has appointed a Special Coordinator on Improving the United Nations Response to Sexual Exploitation and Abuse and set up a high-level task force to develop a new strategy for preventing and responding to such abhorrent crimes. The Secretary-General has specifically called upon Member States to implement extraterritorial jurisdiction, repatriate culpable personnel, discipline repatriated personnel and hold accountable responsible officers in the chain of command.[94]

D. International and regional legal framework

63. The international legal framework on the sale of, trafficking in and other forms of exploitation of children in conflict and humanitarian crises draws on several branches of international law. In some cases, common and overlapping rules operate to ensure that certain protection measures (e.g., against sale, trafficking, slavery, sexual exploitation, child and forced marriage and forced labour) are applicable in all situations, including in situations of armed conflict and humanitarian crisis.

64. International law prohibits and ensures the protection of children from sale, trafficking and other forms of exploitation in situations of conflict and humanitarian crisis. This includes the Convention on the Rights of the Child and its Optional Protocols on the sale of children, child prostitution and child pornography and on the involvement of children in armed conflict, under which States parties are required to prevent, prohibit and criminalize the exploitation and abuse of children. The International Covenant on Economic, Social and Cultural Rights also provides for the protection of children from economic and social exploitation. Furthermore, the latter treaty, along with the International Covenant on Civil and Political Rights

[90] Ibid., p. 24.
[91] UNICEF, "Neither safe nor sound", p. 10.
[92] European Parliament, Council regulation (EU) No. 604/2013 of 26 June 2013 (see para. 59 above).
[93] See A/70/222.
[94] See A/71/818.

and the Convention on the Elimination of All Forms of Discrimination against Women, enshrines the need for marriage to be based on free and full consent.

65. In addition, the absolute prohibition of slavery, which is a jus cogens norm under international law, is also relevant in this context. Indeed, the worst forms of child labour, child trafficking, slavery and slavery-like practices can cover similar realities, even though they have their own specificities under international law.[95] Moreover, forced marriage is explicitly prohibited under the Supplementary Convention on the Abolition of Slavery, the Slave Trade, and Institutions and Practices Similar to Slavery, which provides that child and forced marriage can be considered as a form of slavery.

66. The United Nations Convention against Transnational Organized Crime and its Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, as well as the United Nations Convention against Corruption, are also relevant to trafficking and other forms of exploitation in all contexts.

67. Instruments of the international labour law provide additional protection to children escaping from conflict and humanitarian crises. Indeed, the International Labour Organization Conventions concerning the Prohibition and Immediate Action for the Elimination of the Worst Forms of Child Labour of 1999 (No. 182) and Forced or Compulsory Labour of 1930 (No. 29) call for the prohibition and elimination of, inter alia, trafficking in and other forms of exploitation of children. The Convention concerning Decent Work for Domestic Workers of 2011 (No. 189) is also very relevant, as exploited children on the move regularly end up in such employment.

68. Several treaties are also directly relevant at the regional level. In Europe, the Council of Europe Conventions on Action against Trafficking in Human Beings, and on the Protection of Children against Sexual Exploitation and Sexual Abuse, as well as the European Union directives on preventing and combating trafficking in human beings and protecting its victims (directive 2011/36/EU) and on combating the sexual abuse and sexual exploitation of children and child pornography (directive 2011/92/EU), are vital instruments. Protection is also provided in other regions by the African Charter on the Rights and Welfare of the Child, the South Asian Association for Regional Cooperation Convention on Preventing and Combating Trafficking in Women and Children for Prostitution, and the Inter-American Convention on International Traffic in Minors.

69. The Rome Statute of the International Criminal Court lists, under acts that may constitute war crimes and crimes against humanity, the recruitment and use of children in armed conflict, the commission of rape, sexual slavery, enforced prostitution, forced pregnancy, enforced sterilization any other form of sexual violence and enslavement. Also of relevance are the Geneva Conventions relating to the protection of victims of international armed conflicts of 1949 and the Protocols Additional thereto of 1977, under which certain conduct in the context of international and non-international armed conflict, including slavery, sexual slavery, sexual violence and forced labour, is prohibited.

70. The Convention relating to the Status of Refugees of 1951 and its Protocol of 1967 provide additional fundamental rights to refugee children. A core provision is that of non-refoulement, and basic standards are also set in respect to welfare. At the regional level, the Cartagena Declaration on Refugees, the Organization of African Unity Convention Governing the Specific Aspects of Refugee Problems in Africa and the European Union asylum acquis are also important.

[95] See A/71/261.

71. Various United Nations resolutions also address this issue. For example, the Human Rights Council has addressed child, early and forced marriage in humanitarian settings in its draft resolution A/HRC/35/L.26, while the Security Council, in its resolution 2225 (2015), requested the Secretary-General to include in the annexes to his reports on children and armed conflict those parties that engage in patterns of abduction of children in situation of armed conflict, and, in its resolution 2331 (2016), focused for the first time on trafficking in persons in the context of armed conflict.

72. Other tools that fight trafficking and other forms of exploitation of children in the context of conflict and humanitarian crises include the recommended principles and guidelines on human rights and human trafficking of the Office of the United Nations High Commissioner for Human Rights (E/2002/68/Add.1); the UNHCR guidelines on victims of trafficking and persons at risk of being trafficked;[96] the UNICEF guidelines on the protection of child victims of trafficking of 2006;[97] and the minimum standards for child protection in humanitarian action[98] elaborated by the Global Protection Cluster. Other standards, such as the UNICEF core commitments for children in humanitarian action,[99] the professional standards for protection work[100] and the guiding principles on unaccompanied and separated children of the International Committee of the Red Cross[101] further complete the international legal protection framework against trafficking and other forms of child exploitation. The guidelines on justice in matters involving child victims and witnesses of crime of the Economic and Social Council[102] also provide further protection to child victims and guarantee their best interests.

73. Lastly, global initiatives, such as the 2030 Agenda for Sustainable Development, call upon States to eradicate, inter alia, trafficking in and other forms of exploitation of children in its targets 5.3, 8.7 and 16.2. In addition, the New York Declaration for Refugees and Migrants (General Assembly resolution 71/1) commits States to protect the human rights of all refugee and migrant children, regardless of their status, in particular those of unaccompanied children or of children separated from their families. The ensuing development of the global compact for safe, orderly and regular migration and of that on refugees constitutes a potential additional landmark for the protection of children on the move from trafficking and other forms of exploitation.

IV. Conclusion

74. **Conflict and natural and humanitarian disasters expose children, and more particularly those unaccompanied or separated from their families, to multifaceted vulnerabilities and put them at a higher risk of being trafficked, sold and sexually exploited, coerced into child or forced marriages, and used in the worst forms of child labour. While girls are more likely to fall victims to sexual exploitation, there are nonetheless also cases of boys being abused.**

[96] See www.refworld.org/docid/443679fa4.html.

[97] See www.unicef.org/protection/Unicef_Victims_Guidelines_en.pdf.

[98] See https://cms.emergency.unhcr.org/documents/11982/80321/Child+Protection+Working+Group+-+Minimum+Standards+for+Child+Protection+in+Humanitarian+Action+2012/701dcb31-54b8-4db9-aa89-9130dc25e41a.

[99] See https://www.unicef.org/publications/files/CCC_042010.pdf.

[100] See www.icrc.org/eng/assets/files/other/icrc-002-0999.pdf.

[101] See https://www.icrc.org/en/publication/1101-inter-agency-guiding-principles-unaccompanied-and-separated-children.

[102] Economic and Social Council resolution 2005/20.

75. Existing prevention mechanisms and responses to various forms of exploitation of children in the context of conflict and humanitarian crisis are largely ineffective and lead to precariousness. Indeed, the accurate identification of children who are victims of sale, trafficking and other forms of exploitation is hindered by the inadequate training, or lack thereof, of frontline workers, challenges in age and filiation determination, and a lack of communication and coordination among various actors. In spite of some promising practices, the interim care of and durable solutions for vulnerable children on the move often do not consider the specific needs of children, especially those separated or unaccompanied who live in mixed spaces with adult migrants or refugees in areas or camps that lack basic amenities. The existence of numerous cases of sexual exploitation of children is an additional indication of the failure of a protection system meant to safeguard them.

76. Living in limbo for long periods owing to delays or inefficiencies in or the absence of regular channels for migration may drive children who have depleted their financial resources to seek alternative ways, whether legal or illegal, to earn money either to survive or to continue their journeys. This situation leads them into the arms of criminals who are able to facilitate their passage to other countries. Moreover, the use of detention for children on the move is contrary to their rights, is especially detrimental to their well-being and should not be resorted to. In addition, while it is fundamental to pursue ongoing efforts to investigate and prosecute smugglers and traffickers, more emphasis must be placed on reducing the vulnerabilities of children on the move.

77. Finally, while, the Special Rapporteurs, in the present report, aim to raise international awareness of the vulnerabilities of children to sale, trafficking and other forms of exploitation related to the complex situation of conflict and humanitarian crisis, by no means do they deal exhaustively with all such forms of exploitation, and the report only provides an overview of the vulnerabilities of children.

V. Recommendations

78. In view of the States' legal responsibility to identify, protect and assist children who are victims of sale and trafficking and those vulnerable to other forms of exploitation in all circumstances, including conflict and humanitarian crisis, and ensure accountability for crimes, the Special Rapporteurs offer the following recommendations.

79. The Special Rapporteurs recommend to call upon States that have not yet done so to ratify and implement the Convention on the Rights of the Child, its Optional Protocol on the sale of children, child prostitution and child pornography and its Optional Protocol on the involvement of children in armed conflict, the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime, the Rome statute of the International Criminal Court and the relevant International Labour Organization instruments.

80. In terms of identification, all States, particularly those hosting children who are victims of exploitation in situations of conflict and humanitarian crisis, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations, should:

(a) **Ensure that unaccompanied and separated children are promptly identified, registered and referred to the child protection system;**

(b) **Ensure that such identification procedures take into account the age, gender, cultural background and maturity of the child, as well as the circumstances of his or her journey. This approach should be aimed at establishing a relationship of trust with the children, ensuring that their views are heard and duly taken into account. Child-sensitive age assessment should only be performed in cases of doubt regarding the child's age. In case of uncertainty, the person should be considered a child. Children should also be informed of the purpose and process of age assessment procedures in a language that they understand;**

(c) **Enhance the capacity of all stakeholders, including border and law enforcement officials, front-line workers and volunteers, in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements, and in areas of arrival of large influxes of people fleeing conflict and humanitarian crisis, to ensure the systematic registration of all, including children, and the identification of cases and risks of trafficking and exploitation of children.**

81. **In terms of protection and assistance, States, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations, should:**

(a) **Adopt proactive protection measures based on the best interests of the child and in line with international humanitarian, human rights and refugee laws, as well as general comment No. 14 (2013) of the Committee on the Rights of the Child to have his or her best interests taken as a primary consideration when indications of sale, trafficking or other forms of exploitation are found; and take all the necessary measures to prevent the illegal adoption and sale of children in the context of conflict and humanitarian crises;**

(b) **Recognize the international protection needs, actual and potential, of children and adopt standardized, child-sensitive screening protocols, as well as child-friendly mechanisms to systematically report and respond to instances of missing children, including by reporting to the police;**

(c) **Establish or adapt national referral mechanisms for assistance and protection services, including gender- and child-sensitive measures, for victims and potential victims of sale, trafficking and other forms of exploitation, involving national authorities and civil society organizations in decision-making;**

(d) **Ensure the provision of health and psychosocial services in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements, as well as access to education, religious and cultural practices. Ensure also that practitioners are trained and supported in working with distressed, traumatized children and victims of trafficking and exploitation. Services must be child-friendly and give consideration to the cultural, religious and social norms and values of these children;**

(e) **Create safe child-friendly spaces in places where migrants or refugees reside, including reception centres, refugee camps or informal settlements that host children and offer them space for recreation, study and rest, separated from other facilities, and ensure that those areas are family-based and family-like, whenever possible;**

(f) Appoint trained and independent translators in areas and services that are or could potentially be in contact with vulnerable migrant and refugee children to facilitate effective communication and access to services;

(g) Ensure that children have full access to information about their rights and the protection and support services available to them, that this information is accurate, timely and comprehensive and that it is delivered in a manner that takes into consideration their age, language and cultural background.

82. In terms of durable solutions, States, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations, should:

(a) Ensure that child victims have the right to receive long-term care and protection, including full access to health care, psychosocial support, social services, education, vocational training and life skills education. In consultation with the child and in coordination with the local child welfare systems, an individual plan should be adopted, and arrangements need to be found that favour family- and community-based solutions;

(b) Ensure that, in the child's best interests, sufficient resources are allocated to the family reunification procedures to ensure the operational capacity to carry out evaluations in a reasonable time and reduce the overall length of the process; and adopt a broad interpretation of family, taking into consideration cultural differences and the best interests of the child;

(c) Fully respect non-refoulement obligations deriving from international human rights, humanitarian, refugee and customary international law, in particular the obligations codified in article 33 of the Convention relating to the Status of Refugees of 1951 and article 3 of the Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment. The repatriation of any child can only be decided when it is evidenced on a case-by-case basis that it is in his or her best interests and after ensuring, by means of a procedure with proper safeguards, that the child, upon return, will be safe and provided with proper care and custody;

(d) Grant non-nationals who are victims of trafficking residence status and assistance, not to be made conditional on the initiation of criminal proceedings or their cooperation with law enforcement authorities.

83. In terms of access to justice, prosecution and sanctions, States, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations, should:

(a) Ensure that national legislation prohibits and criminalizes the sale of and trafficking in children as separate crimes, with penalties that reflect the gravity of those crimes;

(b) Ensure that legislation, policies, measures and practices guarantee child-sensitive due processes in all migration-related administrative and judicial proceedings affecting the rights of children or of their parents. All children, including those accompanied by parents or other legal guardians, must be treated as individual rights-holders, not criminals, their child-specific needs must be considered equally and individually and their views must be duly heard. They must have access to administrative and judicial remedies against decisions on their own situation or that of their parents that affect them in order to guarantee that all decisions are taken in their best interests. Children should be able to bring complaints beyond legal or court procedures at lower

levels that should be easily accessible to them, such as those of child protection and youth institutions, schools or the ombudsperson, and they should be able to receive advice from professionals in a child-sensitive manner when their rights have been violated;

(c) Ensure easy access to child-sensitive complaint and reporting mechanisms for child sexual abuse and exploitation, through comprehensive and adequately resourced child protection systems;

(d) Ensure that a legal representative for all children (including families) and a trained guardian for unaccompanied and separated children are appointed as soon as possible upon arrival, free of charge;

(e) Ban the administrative detention of children, in particular, but not only, for violations of immigration laws and regulations; ensure that children who are victims of or vulnerable to sale, trafficking and other forms of exploitation are not detained, prosecuted or punished for violations of immigration laws or for unlawful activities that they are involved in as a direct consequence of their situation as victims of exploitation. When the child's best interests require keeping the family together, the imperative requirement not to deprive the child of liberty should extend to the child's parents and requires that the authorities choose alternatives to detention for the entire family;

(f) Ensure the accountability of military and peacekeeping troops and of international humanitarian personnel in cases of child sexual abuse and exploitation by implementing zero tolerance for such crimes, setting up prompt and effective investigations and prosecutions, implementing commensurate penalties for those guilty of such crimes, taking such measures as repatriation and the termination of deployment, withholding funds and providing reparation for victims. Care, recovery and reintegration measures should also be provided to child victims as part of their right to a remedy.

84. The United Nations should ensure that the sale of and trafficking in children are linked to the six grave violations and abuses against children.[103] When linked to trafficking, such violations are particularly egregious and should be given special consideration as grounds on which to bar countries repeatedly listed as being involved in those violations in the annual reports of the Secretary-General on children and armed conflict from contributing troops to United Nations operations. In addition, when such violations constitute international crimes, the international community should ensure that perpetrators are held accountable by, inter alia, referring cases to the International Criminal Court, as a means to combat impunity and ensure that such heinous crimes do not go unpunished.

85. In terms of prevention and the promotion of rights, States, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations, should:

(a) Recognize and address the specific vulnerability of boys and girls to sale, trafficking and other forms of exploitation in conflict, post-conflict and humanitarian crisis situations;

(b) Prevent the sale of and trafficking in children, especially targeting unaccompanied children, such as orphans, children left behind by parents fleeing conflict and children moving alone to flee conflict and humanitarian crisis areas;

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[103] See Security Council resolution 1612 (2005); https://childrenandarmedconflict.un.org/effects-of-conflict/six-grave-violations/.

(c) Prevent sexual exploitation by the military, extremist groups or family members, as well as child or forced marriages, whether in refugee or internally displaced persons camps or in the host country;

(d) Identify measures to prevent the sexual and labour exploitation of children, including by establishing accessible, safe and regular channels of migration, respecting the principle of non-refoulement and ensuring that, whenever relevant, migrant and refugee children have regular access to the labour market in the host country;

(e) Collect and analyse disaggregated data on the crimes of sale of, trafficking in and other forms of exploitation of children, in order to inform the design and implementation of effective prevention and protection policies to combat those phenomena;

(f) Address factors that increase the root causes of vulnerabilities of children to sale, trafficking and other forms of exploitation in the context of conflict and humanitarian crisis by adopting and implementing strategies that tackle, among other factors, inequality, poverty and all forms of discrimination, including in the context of the strategies for implementing the 2030 Agenda for Sustainable Development.

86. In terms of cooperation and coordination, States, in cooperation with United Nations agencies and programmes, international organizations, host countries and civil society organizations, should:

(a) Strengthen collaboration, data sharing and the exchange of good practices among Governments, humanitarian agencies and civil society on the identification, referral and assessment of children at risk of sale, trafficking and exploitation;

(b) Actively participate in and support international initiatives, such as Alliance 8.7 and the Global Partnership to End Violence against Children, aimed at achieving the Sustainable Development Goals, to ensure that children grow up free from violence and exploitation, and engage in the global compact for safe, orderly and regular migration and the global compact on refugees;

(c) Support the work of the independent expert appointed by the Secretary-General to lead the work of a new in-depth global study on the situation of children deprived of liberty by providing him with the necessary means and resources to fulfil his mandate, as an effective means to support the achievement of the 2030 Agenda for Sustainable Development through the development of alternatives to the detention of children.